

N A R U C



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ORIGINAL

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July 1, 1999

JUL 7 1999

Office of the Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

RE: Ex Parte: Two Copies filed in the following proceedings:

Petition of the California PUC and the People of the State of California for an Additional Delegation of Authority to Conduct NXX Code Rationing, NSD File No. L-98-136, DA 99-108 (rel. Jan. 6, 1999);

Massachusetts DTE Request for Additional Authority to Implement Various Area Code Conservation Measures in the 508, 617, 781, and 978 Area Codes, NSD File No. L-99-19, DA 99-461 (rel. 3/5/99);

New York DPS Petition for Additional Authority to Implement Number Conservation Measures, NSD File No. L-99-21, DA 99-462 (rel. 3/5/99);

Maine PUC's Petition for Additional Authority to Implement Number Conservation Measures, NSD File No. L-99-27, DA 99-638 (rel. 4/1/99);

Florida PSC's Petition for Authority to Implement Number Conservation Measures, NSD File No. 99-33, DA 99-725 (rel. 4/15/99);

Petition of the California PUC and the People of the State of California for an Delegation of Additional Authority Pertaining to Area Code Relief and to NXX Code Conservation Measures, NSD File No. L-98-928, DA 99-108 (rel. 5/14/99).

In the Matter of Numbering Resource Optimization; Connecticut DPUC Petition for Rulemaking to Amend the Commission's Rule Prohibiting Technology-Specific or Service-Specific Area Code Overlays; Massachusetts DTE Petition for Waiver to Implement a Technology-Specific Overlay in the 508, 617, 781, and 978 Area Codes; California PUC and the People of the State of California Petition for Waiver to Implement a Technology-Specific or Service-Specific Area Code, CC Docket 99-200; RM No. 9258, NSD File No. L-99-17; NSD File No. L-99-36, FCC 99-122 (rel. 6/3/99).

Madam Secretary:

This letter is being filed to comply with the FCC's rules on *ex parte* contacts. The *ex parte* contacts occurred June 18, June 21, June 23, and June 24, 1999. I respectfully request any waivers needed to file this notice out-of-time.

The focal point of all the contacts can be summarized in three points.

- The States are pleased the FCC has recognized the numbering crisis facing the country and opened a rulemaking on numbering conservation issues.

- The FCC should act immediately on pending State requests for delegations of additional authority to deal with numbering issues.
- The FCC should provide some interim delegation of numbering conservation authority pending completion of the numbering optimization rulemaking.

Several handouts covering the views of the participants to the June 18, 1999 meeting elaborate on these central themes. Those handouts are appended to this notice as required by the Commission's rules. More detail on the oral presentations is included *infra*.

PROCEDURAL BACKGROUND

The specific relief sought by individual commissions in the above-captioned proceedings was mentioned in some of the *ex parte* meetings. In those proceedings, State commissions have requested authority (1) to implement number pooling trials (thousands-block pooling, individual phone number pooling, and unassigned number porting); (2) to adopt number-assignment standards (including establishing fill rates as a criterion for the allocation of NXX codes, assigning numbers sequentially, certifying the readiness of carriers' facilities prior to assigning NXX codes, and engaging in audits to assure carriers are abiding by these standards as well as industry number-assignment guidelines); (3) to maintain rationing of NXX codes for six months following NPA relief; (4) to hear and address claims of carriers seeking numbering resources outside of NXX rationing plans; (5) to order the return of unused or reserved NXX codes to the NANPA; (6) to implement extended local calling areas, inconsistent rate centers, and NXX code sharing; and to expand the deployment of permanent local number portability. The comment periods for all of the proceedings referenced above have closed. Many of the delegations of authority sought in these proceedings are also under consideration in the FCC's Numbering Resource Optimization Notice. Last week, the FCC sought additional comment on all 5 State petitions and acknowledged one of the consistent themes underlying all the *ex parte* contacts – the need to take some action as soon as possible, but in any case *before* the completion of the outstanding numbering rulemaking: According to that document "*Because the state utility commissions which have petitioned us face immediate concerns regarding the administration of . . . numbering resources in their states, we find it to be in the public interest to address these petitions as expeditiously as possible, prior to completing the rulemaking proceeding.*"

SPECIFIC EX PARTE CONTACTS:

In a series of meetings on June 18, 1999, from 10:15 a.m. to 4:45 p.m., a delegation of commissioners and staff from the Massachusetts Department of Telecommunications and Energy ("Department"), the New Hampshire Public Utilities Commission, the Vermont Public Service Board, and the Maine Public Utility Commission met with 4 of the FCC Commissioners and FCC staff to discuss area code exhaust, related numbering issues, and the delegation's petitions to the FCC for code conservation authority.

The Massachusetts delegation, which instigated the meetings, included Chair Janet Gail Besser, Commissioner Paul Vasington, Telecom Division Director Michael Isenberg, Telecom Division Assistant Director Geoffrey May, and Staff Attorney Karlen Reed. Commissioner Nancy Brockway and Utility Analyst Paul Keller represented the New Hampshire Public Utilities Commission. Chairman Michael Dworkin was present representing the Vermont Public Service Board and Staff counsel Trina Bragdon was present for the Maine Public Utility Commission. NARUC Assistant General Counsel Brad Ramsay also attended each meeting.

In each meeting, the New England delegation:

- Praised the numbering optimization rulemaking as a step in the right direction and thanked the Commissioners and Staff for setting aside the time to discuss the issues.
- Asked the FCC to act quickly on the delegation's area code petitions and to allow state commissions to implement code conservation measures designed to avoid the inefficient use of telephone numbers.
- Emphasized that timing was critical and that FCC action on its May 27, 1999, Notice of Proposed Rulemaking ("NPRM") would come too late for several New England states.
- Urged the FCC to act quickly on some form of interim delegation of authority to the states while the NPRM is pending.

They also pointed out:

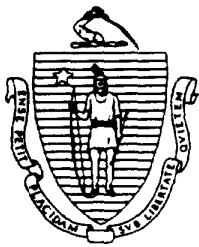
- The FCC should make save existing NPAs from exhaust a fundamental goal of its numbering policy. The NPRM ignores potentially valuable tools to avoid NPA exhaust. For example, while the NPRM discusses delegating authority to the states to allow UNP, the FCC does not discuss nor ask for comment on whether states should be given authority to require UNP.
- Additional enforcement authority – with respect to the FCC's numbering guidelines – should be delegated to the States within the FCC's competitive neutrality and other core policy parameters. No industry participant has a sufficient incentive to use numbers efficiently. A third party must be empowered to enforce adherence to the guidelines. Given staffing constraints, it makes sense for the FCC to delegate many functions to a NANPA. However, because of the difficulty of asking a contractor to make tough resource allocation decisions and take vigorous and controversial enforcement actions, the FCC should delegate such actions to state commissions, under FCC guidelines.

The delegation's met (1) first with Commissioner Harold Furchtgott-Roth and legal advisor Kevin Martin from 10:15 - 11:00, (2) with Commissioner Susan Ness and legal advisor Linda Kenny from 11:00 - 12:00, (3) with Commissioner Gloria Tristani and legal advisor Sarah Whitesell from 1:30 - 2:00, (4) with Commissioner Michael Powell's legal advisor Kyle Dixon from 2:00 - 2:45, (5) with Common Carrier Bureau staff members Yog Varma (Deputy Bureau Chief), Blaise Scinto (deputy chief, Network Services Division), and Network Services Division line attorneys Jared Carlson, Pat Forster, and Tejal Mehta from 2:45 - 4:00, and finally, (6) with Chairman William Kennard and legal advisor Dorothy Attwood from 4:00 - 4:45 p.m. As a follow-up to the June 18 meetings, on June 21, June 23, and June 24, NARUC's Assistant General Counsel, Brad Ramsay, had telephone conversations with and/or left detailed voice mail messages to Dorothy Attwood, Blaise Scinto, Larry Strickling, and Yog Varma about the need for immediate action and the possibility for some interim relief for all of NARUC's member commissions. In addition, also on June 24, 1999, NARUC's AG met with Dorothy Attwood at a Rural Task Force function and discussed further the prospects for some interim relief.

If you have any questions or comments concerning this correspondence, please do not hesitate to contact me at 202.898.2207 or jramsay@naruc.org.

Sincerely

James Bradford Ramsay
NARUC Assistant General Counsel



COMMONWEALTH OF MASSACHUSETTS
OFFICE OF CONSUMER AFFAIRS AND BUSINESS REGULATION
**DEPARTMENT OF
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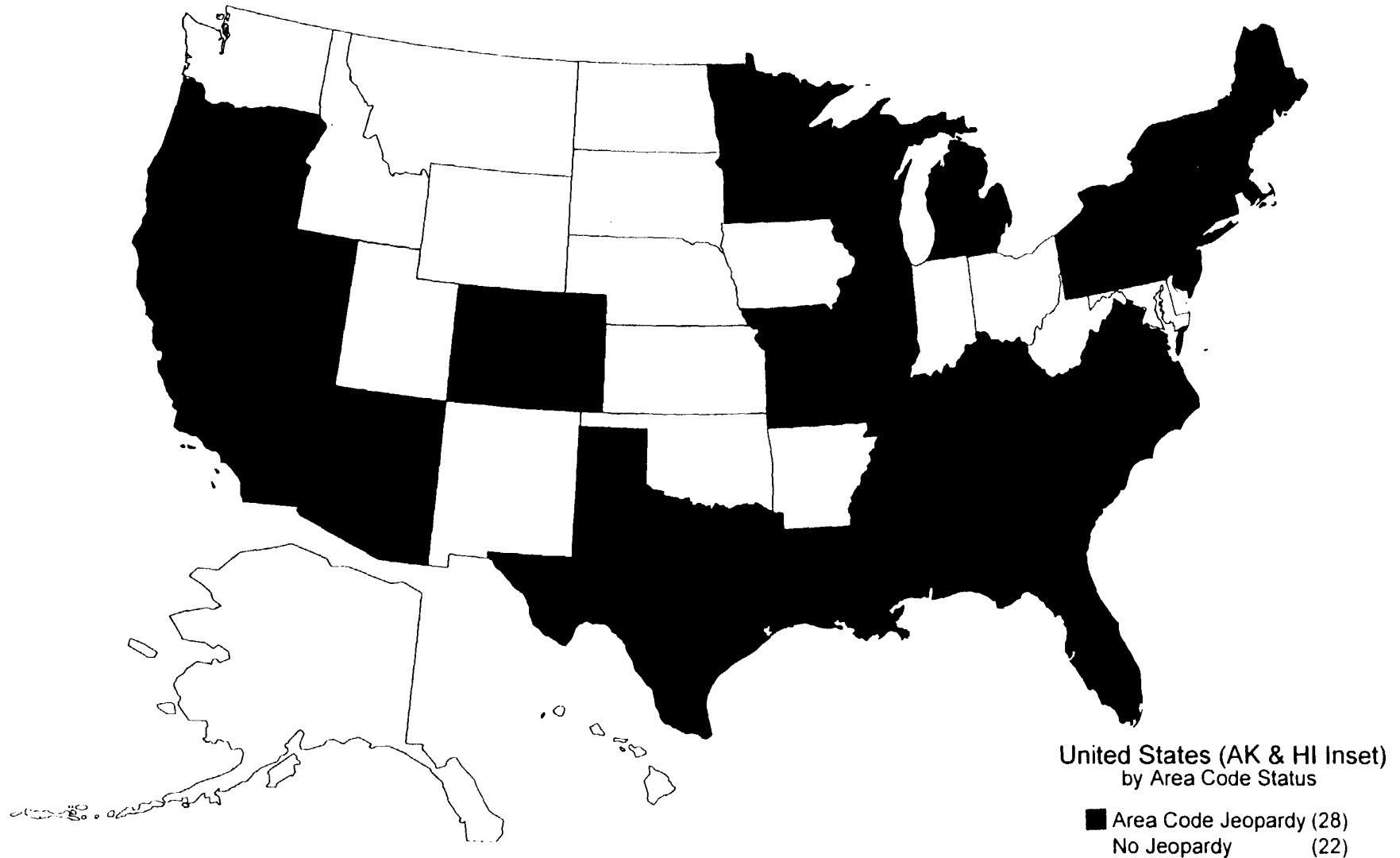
June 18, 1999

The Massachusetts Department of Telecommunications and Energy thanks the Commissioners and their staff and the Common Carrier Bureau for their time and attention. During today's presentation, the Department will describe Massachusetts' area code crisis, urge the Commission to grant our two code conservation petitions, and stress the following three points:

1. FCC Should Order Mandatory 1,000 Block Number Pooling.
 - FCC should order it nation-wide now, not later.
 - Alternatively, let states like MA serve as number pooling trials.
 - MA needs action no later than 4Q 1999 to avoid 4 new area codes.
2. FCC Should Order Reclamation of Unused NXX Codes.
 - FCC should order it now, not later.
 - Alternatively, let MA have the authority, together with setting utilization standards w/NANPA assistance.
3. FCC Should Allow Technology-Specific Overlays.
 - FCC should allow state commissions to order this form of area code relief.
 - The reasons for forbidding this relief form no longer exist -
Not unreasonably discriminatory.
 - This overlay will ensure number availability to wireless carriers who concentrate their NXX requests in certain rate centers.
 - Wireless carriers are not required to be LNP-capable until 11/24/2002, so they won't share in number pooling schemes. This overlay assures number availability to wireless carriers if the FCC orders number pooling.
 - If the FCC orders "calling party pays", as is done in Europe, a consumer needs to know if he's calling a wireless phone because then the caller, not the recipient, pays for the call.

DTE

States Most Affected by Area Code Pressures



PRESENTATION TO THE FCC 6/18/99

1999 COCUS and NPA Exhaust Analysis**
May 26, 1999

Sorted by NPA Exhaust Date

| Locality | | NPA | 1999 | 1998 | +/- |
|----------------|-------|-----|---------|---------|--------|
| New Jersey | R | 609 | 2000 1Q | 1998 4Q | (-2) |
| California | R | 619 | 2000 1Q | 1999 1Q | (-1) |
| Illinois | | 630 | 2000 1Q | 1999 3Q | (-1) |
| New Jersey | R | 973 | 2000 1Q | 2000 4Q | (0) |
| New Jersey | R | 732 | 2000 1Q | 2001 3Q | (1) |
| Michigan | | 248 | 2000 1Q | 2004 1Q | (4) |
| New York | R | 516 | 2000 2Q | 1998 4Q | (-2) |
| Missouri | R | 314 | 2000 2Q | 2000 1Q | (0) |
| Tennessee | | 423 | 2000 2Q | 2000 3Q | (0) |
| California | | 925 | 2000 2Q | 2001 1Q | (1) |
| Oregon | R | 503 | 2000 2Q | 2001 4Q | (1) |
| Michigan | | 734 | 2000 2Q | 2017 1Q | (17) |
| Mississippi | R | 601 | 2000 3Q | 1999 2Q | (-1) |
| New York | R | 914 | 2000 3Q | 1999 2Q | (-1) |
| California | R | 909 | 2000 3Q | 1999 2Q | (-1) |
| Louisiana | R | 318 | 2000 3Q | 2001 2Q | (1) |
| New York | | 518 | 2000 3Q | 2004 1Q | (4) |
| New York | | 315 | 2000 3Q | 2004 3Q | (4) |
| Ohio | | 330 | 2000 3Q | 2005 4Q | (5) |
| Washington | R | 360 | 2000 3Q | 2008 1Q | (8) |
| Michigan | | 517 | 2000 3Q | 2009 1Q | (9) |
| California | R | 415 | 2000 4Q | 1999 1Q | (-1) |
| Illinois | | 708 | 2000 4Q | 1999 4Q | (-1) |
| Tennessee | | 615 | 2000 4Q | 2000 1Q | (0) |
| New Jersey | R | 201 | 2000 4Q | 2000 1Q | (0) |
| Texas | | 409 | 2000 4Q | 2000 1Q | (0) |
| Kentucky | | 606 | 2000 4Q | 2000 2Q | (0) |
| Texas | | 817 | 2000 4Q | 2000 4Q | (0) |
| North Carolina | R | 704 | 2000 4Q | 2001 1Q | (1) |
| Wisconsin | R | 414 | 2000 4Q | 2001 2Q | (1) |
| California | | 530 | 2000 4Q | 2003 3Q | (3) |
| Connecticut | R | 860 | 2000 4Q | 2004 2Q | (4) |
| Nebraska | | 402 | 2000 4Q | 2004 2Q | (4) |
| Massachusetts | R | 617 | 2001 1Q | 1999 1Q | (-2) |
| California | R | 714 | 2001 1Q | 1999 1Q | (-2) |
| California | R | 510 | 2001 1Q | 1999 2Q | (-2) |
| California | R | 818 | 2001 1Q | 1999 3Q | (-2) |
| Minnesota | X R | 612 | 2001 1Q | 2000 2Q | (-1) |
| New Hampshire | R | 603 | 2001 1Q | 2000 4Q | (-1) |
| Virginia | | 804 | 2001 1Q | 2001 4Q | (0) |
| Indiana | | 219 | 2001 1Q | 2002 2Q | (1) |
| Utah | | 801 | 2001 1Q | 2002 4Q | (1) |
| Michigan | | 313 | 2001 1Q | 2003 4Q | (2) |
| Wisconsin | | 920 | 2001 1Q | 2010 2Q | (9) |
| Massachusetts | R | 508 | 2001 2Q | 1999 2Q | (-2) |
| Illinois | | 773 | 2001 2Q | 1999 3Q | (-2) |

617 *

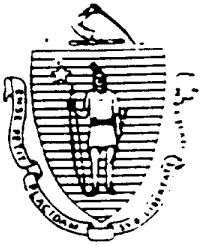
508 *

- X = Indicates 1999 COCUS projection reflects impact of assignment of new NPA relief code
R = Relief date based upon rationing amount
| = Indicates a relief NPA code has been assigned
NA = Not Applicable
** = Data used for study as of 4/1/99

1999 COCUS and NPA Exhaust Analysis**
May 26, 1999

| | | NPA | 1999 | 1998 | +/- |
|-------|----------------|-----|------|---------|----------------|
| 781 * | Locality | | | | |
| | California | I R | 760 | 2001 2Q | 2000 1Q (-1) |
| | California | I R | 650 | 2001 2Q | 2000 2Q (-1) |
| | Massachusetts | R | 781 | 2001 2Q | 2001 1Q (0) |
| | Iowa | | 515 | 2001 2Q | 2001 2Q (0) |
| 978 * | California | | 626 | 2001 2Q | 2001 2Q (0) |
| | California | R | 707 | 2001 2Q | 2002 2Q (1) |
| | Connecticut | R | 203 | 2001 2Q | 2002 3Q (1) |
| | Missouri | R | 816 | 2001 2Q | 2004 3Q (3) |
| | Michigan | R | 810 | 2001 2Q | 2008 2Q (7) |
| | Georgia | | 678 | 2001 3Q | 1999 3Q (-2) |
| | Massachusetts | R | 978 | 2001 3Q | 2001 2Q (0) |
| | Pennsylvania | | 412 | 2001 3Q | 2001 4Q (0) |
| | Georgia | | 770 | 2001 3Q | NA (NA) |
| | Illinois | | 312 | 2001 4Q | 1999 4Q (-2) |
| | Florida | R | 904 | 2001 4Q | 2000 1Q (-1) |
| | New York | R | 716 | 2001 4Q | 2000 2Q (-1) |
| | New Jersey | | 908 | 2001 4Q | 2000 4Q (-1) |
| | Maine | | 207 | 2001 4Q | 2000 4Q (-1) |
| | California | | 562 | 2001 4Q | 2001 1Q (0) |
| | Arizona | | 520 | 2001 4Q | 2004 4Q (3) |
| | Ohio | | 440 | 2001 4Q | 2008 1Q (7) |
| | Maryland | | 240 | 2001 4Q | 2010 1Q (9) |
| | Indiana | | 765 | 2001 4Q | 2012 4Q (11) |
| | Maryland | | 301 | 2001 4Q | NA (NA) |
| | Georgia | | 912 | 2002 1Q | 1999 4Q (-3) |
| | Alabama | | 334 | 2002 1Q | 2002 2Q (0) |
| | California | | 916 | 2002 1Q | 2001 3Q (-1) |
| | Pennsylvania | | 724 | 2002 1Q | 2004 2Q (2) |
| | Ohio | | 513 | 2002 1Q | 2004 2Q (2) |
| | Maryland | | 443 | 2002 1Q | 2006 1Q (4) |
| | Ohio | | 419 | 2002 1Q | 2006 3Q (4) |
| | Maryland | | 410 | 2002 1Q | NA (NA) |
| | Kansas | | 316 | 2002 2Q | 2002 4Q (0) |
| | Texas | X | 713 | 2002 2Q | 1998 4Q (-4) |
| | Texas | | 832 | 2002 2Q | NA (NA) |
| | Texas | | 281 | 2002 2Q | 1999 1Q (-3) |
| | Michigan | X I | 616 | 2002 2Q | 2001 2Q (-1) |
| | Virginia | | 540 | 2002 2Q | 2001 3Q (-1) |
| | California | | 949 | 2002 2Q | 2003 1Q (1) |
| | North Carolina | | 919 | 2002 2Q | 2003 2Q (1) |
| | Georgia | | 706 | 2002 2Q | 2004 2Q (2) |
| | Rhode Island | | 401 | 2002 2Q | 2004 3Q (2) |
| | Michigan | | 231 | 2002 2Q | NA (NA) |
| | Florida | R | 954 | 2002 2Q | 2007 1Q (5) |
| | Washington | | 206 | 2002 2Q | 2010 3Q (8) |
| | Oregon | | 541 | 2002 2Q | 2013 1Q (11) |
| | Tennessee | | 901 | 2002 3Q | 2003 1Q (1) |

- X = Indicates 1999 COCUS projection reflects impact of assignment of new NPA relief code
R = Relief date based upon rationing amount
I = Indicates a relief NPA code has been assigned
NA = Not Applicable
** = Data used for study as of 4/1/99



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February 12, 1999

SENT VIA FEDERAL EXPRESS

Magalie Roman Salas, Secretary
Federal Communications Commission
Room 222
1919 M Street, N.W.
Washington, DC 20554

re: Massachusetts Department of Telecommunications and Energy's Petition for Waiver to
Implement a Technology-Specific Overlay in the 508, 617, 781, and 978 Area Codes

Dear Ms. Salas:

Enclosed for filing in the above matter please find one original and five copies of the
Massachusetts Department of Telecommunications and Energy's Petition for Waiver to
Implement a Technology-Specific Overlay in the 508, 617, 781, and 978 Area Codes. Kindly
stamp one copy and return it to us in the enclosed stamped, self-addressed envelope.

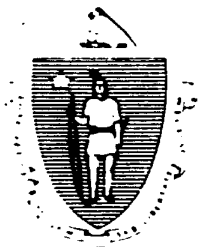
Sincerely,


Karlen J. Reed, Esq.

KJR:kr

Enc

cc: Al McCloud, Common Carrier Bureau, Network Services (w/enc.)
Jared Carlson, Common Carrier Bureau, Network Services Division (w/enc.)
Attached Service List (w/enc.)



The Commonwealth of Massachusetts

**DEPARTMENT OF
TELECOMMUNICATIONS AND ENERGY**

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

MASSACHUSETTS DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY'S
PETITION FOR WAIVER TO IMPLEMENT A TECHNOLOGY-SPECIFIC OVERLAY
IN THE 508, 617, 781, AND 978 AREA CODES

Commonwealth of Massachusetts
Department of Telecommunications and Energy

Janet Gail Besser, Chair
James Connelly, Commissioner
W. Robert Keating, Commissioner
Paul B. Vasington, Commissioner
Eugene J. Sullivan, Jr., Commissioner

100 Cambridge Street, 12th Floor
Boston, MA 02202
617-305-3500

Dated: February 12, 1999

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

MASSACHUSETTS DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY'S
PETITION FOR WAIVER TO IMPLEMENT A TECHNOLOGY-SPECIFIC OVERLAY
IN THE 508, 617, 781, AND 978 AREA CODES

The Massachusetts Department of Telecommunications and Energy ("Department") respectfully requests that the Federal Communications Commission ("Commission" or "FCC") waive the provisions of 47 C.F.R. Section 52.19(c)(3) and permit the Department to implement a technology-specific or service-specific overlay in the 508, 617, 781, and 978 area codes in eastern Massachusetts. The Department requests this waiver as part of its ongoing area code relief plan investigation for these area codes, in light of the fact that this is the second time in two years that Massachusetts consumers are facing the confusion and expense associated with introducing new area codes.

I. BACKGROUND

On January 23, 1997, the Department ordered a geographic split of the 617 and 508 area codes to create two new area codes, 781 and 978, to be fully implemented beginning on May 1, 1998. On March 4, 1998, the North American Numbering Plan Area Code Administrator, Lockheed Martin IMS ("Lockheed"), notified the Department that, because of an unexpectedly high demand for new exchange codes, the 508 and 617 area codes were again in jeopardy of exhausting the available supply of exchange codes. On April 24, 1998, the Department filed

comments with the Commission supporting the Connecticut Department of Public Utility Control's petition for a technology-specific overlay to conserve exchange codes. Initial Comments of the Commonwealth of Massachusetts Department of Telecommunications & Energy, DA 98-743 (Comments dated April 24, 1998). Simultaneously, on April 24, 1998, the Department opened an investigation into code conservation measures to evaluate ways to delay the need to introduce new area codes in Massachusetts. Area Code Conservation, D.T.E. 98-38.

On May 12, 1998, Lockheed notified the Department that the new 781 and 978 area codes were also in a jeopardy condition. On May 18, 1998, Lockheed filed its relief plans for the 508 and 617 area codes. On September 28, 1998, the Commission issued a Memorandum Opinion and Order in which it outlined state commission authority to order the implementation of exchange code conservation methods. In the Matter of Petition for Declaratory Ruling and Request for Expedited Action on the July 15, 1997 Order of the Pennsylvania Public Utility Commission Regarding Area Codes 412, 610, 215, and 717: Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 96-98, FCC 98-224, NSD File No. L-97-42 (published November 16, 1998, Fed. Reg.) ("Pennsylvania Opinion"). On October 27, 1998, the Department filed a Petition for Reconsideration of the Pennsylvania Opinion.

On October 29, 1998, Lockheed filed its relief plans for the 781 and 978 area codes. On January 11, 1999, the Department opened an investigation, docketed as D.T.E. 99-11, to review alternative area code relief plans proposed by Lockheed for the 508, 617, 781, and 978 area codes in Eastern Massachusetts. On January 19, 1999, Lockheed filed revisions to the May 18,

1998, 508 and 617 relief plans. On January 26, 1999, the Department modified the on-going conservation docket, Area Code Conservation, D.T.E. 98-38, to allow for an adjudication on the issue of rate center consolidation. On February 2, 1999, Governor A. Paul Cellucci of the Commonwealth of Massachusetts sent a letter to FCC Chairman William E. Kennard formally requesting the Commission to grant the Department's waiver requests for additional authority, including a technology-specific waiver.¹

II. FEDERAL OVERLAY STANDARDS

Congress delegated to state commissions the authority to implement new area codes and to determine the appropriate forms of area code relief, i.e., by (1) geographic split,² (2) area code boundary realignment,³ or (3) an area code overlay⁴ (47 C.F.R. Section 52.19; Pennsylvania

¹ Governor Cellucci asked the Commission to grant the Department authority to (1) order thousands-block number pooling in Massachusetts by the end of 1999, (2) set the standards for allocation of exchange codes for a more efficient use of the numbering resources, (3) maintain some central office code rationing measures even after implementation of area code relief, (4) require return of unused exchange codes, (5) hear and address claims of carriers seeking additional exchange codes outside of the rationing plan, and (6) allow Massachusetts to consider a technology-specific overlay. See Governor Cellucci's letter to Honorable William E. Kennard, dated February 2, 1999 (Attachment "A").

A geographic split involves dividing a geographic area served by an existing area code into two or more geographic parts and one part maintains the old area code, with the remaining parts receiving new area codes.

A boundary realignment involves a shift of the boundary lines between two adjacent area codes to allow the transfer of some NXX codes from an area code for which many NXX codes remain unassigned to an area code for which few NXX codes are left for assignment.

An area code overlay occurs when a new area code is introduced to serve the same geographic area as an existing area code. Under current FCC rules, a consumer must dial

Opinion at 7-8). The Commission prohibits the use of technology-specific overlays as a means of area code relief because the Commission has determined that overlays that segregate certain types of telecommunication services or technologies are unreasonably discriminatory and unduly inhibit competition (Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 96-98, Second Report and Order and Memorandum Opinion and Order, 11 FCC Record 19392 (1996) (Local Competition Second Report and Order), petitions for reconsideration pending, vacated in part, People of the State of California v. FCC, 124 F.3d 934 (8th Cir. August 22, 1997), cert. granted, sub nom. AT&T Corp. v. Iowa Util. Bd., 118 S.Ct. 879 (Jan. 26, 1998), reversed in part on other grounds and remanded, Nos. 97-826 (S.Ct. Jan. 25, 1999)).⁵

III. DISCUSSION

The Department respectfully requests that the Commission grant it a waiver of the Commission's rule prohibiting technology-specific or service-specific area code overlays. Whether a technology-specific or service-specific overlay would unreasonably discriminate and

10 digits, not 7 digits, for all calls whenever overlay area code plans are implemented, even if the dialed number is located within the same exchange service area.

"An area code overlay [is] ... subject to the following conditions: (i) No area code overlay may be implemented unless all central office codes in the new overlay area code are assigned to those entities requesting assignment on a first-come, first-serve basis, regardless of the identity of, technology used by, or type of service provided by that entity. No group of telecommunications carriers shall be excluded from assignment of central office codes in the existing area code, or be assigned such codes only from the overlay area code, based solely on that group's provision of a specific type of telecommunications service or use of a particular technology." 47 C.F.R. 52.19(c)(3)

unduly inhibit competition in Massachusetts can be best explored by state regulators on the basis of their knowledge of local market conditions. Given the disruptions, inconvenience, and costs that consumers bear with the introduction of new area codes, state regulators should have the option of investigating and weighing the advantages of a technology-specific overlay in terms of avoiding customer confusion, disruptions and inconvenience against the possible competitive disadvantages of a technology-specific or service-specific overlay.

The Department notes that the circumstances in Massachusetts may be different from the circumstances in existence when the Commission originally prohibited technology-specific or service-specific area code overlays in 1995.⁶ Massachusetts is an extremely competitive telecommunications marketplace with 88 registered competitive local exchange carriers. We believe it appropriate for state regulators to investigate whether a technology-specific or service-specific overlay would unduly inhibit competition based on local market conditions, rather than continue to rely on the assumption from 1995 that such overlays would be anticompetitive in each and every market.

IV. CONCLUSION

The Department has opened an investigation into area code relief for the 508, 617, 781, and 978 area codes in eastern Massachusetts, and the Department also opened an investigation into area code conservation (D.F.E. 98-38). The Department has not made any substantive

⁶ The Commission first prohibited a technology-specific overlay in connection with a 1995 Ameritech relief plan order. See Proposed 708 Relief Plan and 630 Numbering Plan Area Code, Declaratory Ruling and Order, LAD File No. 94-102, 10 FCC Record 4596 (1995).

findings on whether a technology-specific overlay is appropriate at this time. However, we would like to have a full range of options available to us in our area code docket, D.T.E. 99-11.

The Department is mindful of the potential competitive disadvantages that have been cited (primarily by wireless service providers) in opposition to technology-specific overlays, and we share the Commission's commitment to the development of competitive telecommunications markets in which all potential technologies will have an opportunity to succeed. To best serve the needs of Massachusetts consumers and the increasing demand of exchange codes, however, we seek a waiver from 47 C.F.R. Section 52.19(c)(3) to allow implementation of a technology-

specific or service-specific overlay for the 508, 617, 781, and 978 area codes.

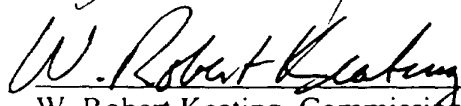
Respectfully submitted,

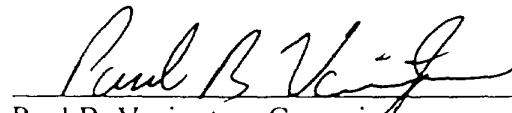
Commonwealth of Massachusetts
Department of Telecommunications and Energy


By:


Janet Gail Besser, Chair


James Connelly, Commissioner


W. Robert Keating, Commissioner


Paul B. Vasington, Commissioner


Eugene J. Sullivan, Jr., Commissioner

100 Cambridge Street, 12th Floor
Boston, MA 02202

Attachment A



THE COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE DEPARTMENT

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ARGENT FALLS, CLEVELAND

LANE SWIFT
DEPUTY SECRETARY

February 2, 1999

The Honorable William E. Kennard
Chairman, Federal Communications Commission
The Portals
445 12th Street
Washington, D.C. 20554

Dear Chairman Kennard:

I am writing to you on behalf of the citizens of the Commonwealth of Massachusetts, who are deeply concerned about the costs, disruption, and inconvenience of having to introduce new area codes for the second time in two years. Massachusetts introduced two new area codes in May 1998 via a geographic split of both the 617 and 508 area codes in eastern Massachusetts. Even as those area codes were being implemented, the Massachusetts Department of Telecommunications and Energy (DTE) was notified by Lockheed Martin, the North American Numbering Plan Administrator (NANPA), that all four of the eastern Massachusetts area codes were already in jeopardy of exhausting the available supply of exchange codes, and, therefore new area codes would again be needed. The NANPA has indicated that one of our area codes will run out of exchange codes in the second quarter of 2000, which means that there is a pressing need for aggressive action in Massachusetts to avoid new area codes.

With four area codes in eastern Massachusetts, there are roughly 30 million phone numbers available for assignment. With a statewide population of just over 6 million, 30 million numbers far exceed our needs for the foreseeable future. Clearly, we have more than enough telephone numbers. Our problem is that we are running out of numbers being driven by the inefficient way that exchange codes are distributed to telephone companies in blocks of 10,000 numbers. We need to find ways to change the distribution system so that customers are not burdened with the consequences of the industry's inefficient rules.

The DTE has been evaluating area code conservation measures, in order to determine whether steps can be taken to delay the need to introduce new area codes. However, because of the impending exchange code exhaust starting in second quarter 2000, the DTE also has begun the process of determining whether an overlay or a geographic split should be used for new area codes. In the event that code conservation measures are not sufficient, Aggressive area code conservation measures are the only hope for changing the system in time to help Massachusetts customers, but recent action by your agency has severely limited our ability to solve the problem.

Letter to Chairman Kenned

It is my understanding that a recent decision by the Federal Communications Commission (FCC) has reduced the possibility of delaying the need for new area codes by limiting the code conservation mechanisms available to the DTE. I was encouraged, however, to learn that the FCC recently approved waiver requests from California and Pennsylvania, allowing them to evaluate and possibly implement certain code conservation measures. The DTE will be making a similar request to the FCC soon, and I urge you to act favorably on that petition. In particular, I request that you approve the DTE's request for authority to take the following steps:

- Order thousands-block number pooling in Massachusetts by the end of this year. The North American Number Council recently stated that thousands-block number pooling can be implemented in 10 to 19 months of a regulatory order. As noted above, in order to avoid exhausting exchange codes, Massachusetts needs to have new area codes in place by the second quarter of 2000, which means that the area codes must be implemented several months earlier. Therefore, a regulatory order to require thousands-block number pooling must be issued as soon as possible in order for it to have any impact in Massachusetts.
- Set the standards for allocation of exchange codes to manage more efficiently numbering resources. Included in this is the authority to require that carriers use a high percentage of the numbers already allocated to them before asking for new exchange codes.
- Maintain some central office code rationing measures even after implementation of area code relief, including the authority to determine all aspects of how central office codes shall be assigned pursuant to that rationing plan.
- Require return of unused exchange codes or thousands number blocks from carriers with excess number resources.
- Hear and address claims of carriers seeking additional exchange codes and work with the area code administrator to ensure that those carriers unable to serve their customers acquire additional exchange codes outside of any rationing plan.

In addition, the DTE on April 24, 1998, asked the FCC to allow states to conduct a technology-specific overlay (e.g., an overlay of new area codes only for wireless service), which current FCC rules prohibit. The DTE has renewed that petition. I ask you to approve that request as well. As the DTE noted in its petition, the question whether a technology-specific overlay would be unreasonably discriminatory and would unduly inhibit competition should be answered by state regulation, on the basis of their knowledge of local market conditions.

I understand the importance of the FCC's oversight of numbering resources in terms of promoting the worthwhile policy goals of competition and deregulation. We have articulated these goals here in Massachusetts. However, I strongly encourage you to allow Massachusetts to be a laboratory for implementing code conservation measures that have the potential to solve the

Letter to Chairman Keener

problem of how numbers are distributed. Each state has unique circumstance and marketplace conditions that should be taken into account in how numbering resources are distributed. Massachusetts, with an economy largely reliant on Information Age technologies, should be free to take innovative steps to ensure that telephone numbers are distributed in a way that promotes competition without unduly inconveniencing customers.

Thank you very much for your time and consideration on this issue, and please feel free to contact me or the DTE Commissioners if you have any questions or comments.

Sincerely,



Argeo Paul Cellucci

Massachusetts's Petition for Waiver re: Technology Overlay February 12, 1999

Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20054

The Massachusetts Department of)
Telecommunications and Energy's)
Petition for Waiver to Implement)
Technology-Specific Overlay for Area Code)
Relief in the 508, 617, 781, and 978)
Area Codes.)

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Massachusetts's Petition for Waiver re: Technology Overlay February 12, 1999

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Massachusetts's Petition for Waiver re: Technology Overlay February 12, 1999

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Massachusetts's Petition for Waiver re: Technology Overlay February 12, 1999

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